

Appl. No. : 10/624,816
Filed : July 22, 2003

REMARKS

The Specification and Drawings of the above-identified application have been amended herein to correct clerical errors and inadvertent duplication of element numbers. These errors were discovered during proofreading of the parent application (now U.S. Patent No. 6,618,625). The Specification has also been amended to include the patent number and issue date of the U.S. patent from which this is a continuation application. Applicant submits that no new matter is introduced by these amendments.

Claims 1, 7, 13, 14, 17-19, 22 and 23 have been amended by this paper, Claims 15, 16, 20, 21 and 24-28 have been cancelled without prejudice to their inclusion in a subsequent application, and Claims 2-6 and 8-12 remain unchanged by this Amendment. Hence, by this paper, Claims 1-14, 17-19, 22 and 23 are presented for examination.

In the parent application, a number of claims pending therein had been rejected in an Office Action mailed December 17, 2002. In response, the rejected claims were cancelled from that application, and those cancelled claims were presented in the above-identified patent application upon filing thereof. By this Preliminary Amendment, those claims have been amended or cancelled so as to more clearly define subject matter which is patentable over the art of record.

In that Office Action, Claims 1-28, as presented herein, were rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Lathrop (U.S. Patent No. 6,083,250, hereinafter "Lathrop"), Powers et al. (U.S. Patent No. 4,786,277, hereinafter "Powers"), Lee (U.S. Patent No. 6,389,319, hereinafter "Lee"), Kleditsch et al. (U.S. Patent No. 5,470,349, hereinafter "Kleditsch"), and Tu et al. (U.S. Patent No. 6,104,952, hereinafter "Tu").

Applicant respectfully submits that the claims, as presented herein, define subject matter which is patentable over the art of record. For example, Claim 1 defines a method of treating viral infections wherein "electrical stimulation is applied via first and second electrodes located on a surface as a series of electrical pulses, wherein the first electrode defines a closed contour configuration that surrounds a portion of the surface and the second electrode defines another closed contour configuration that surrounds the closed contour of the first electrode . . .". Similar limitations are presented in Claims 7, 13, 14 and 22. Applicant submits that none of the cited references, taken alone or in combination, either teach or suggest the method or apparatus as now set forth in the claims.

Applicant notes that in the Office Action dated December 17, 2002, in the parent application, the Examiner cited Lee on the basis that "Lee discloses first and second electrodes with an elongated surface and each having a closed contour." (Figures 1, 3, 6; column 3, lines 20-31). Referring to Lee, the language at column 3, lines 21-24, states that "[T]he device 10 includes a pair of laterally separable electrodes 12, that is, the discharge ends 14 of the electrodes 12 are fixed within a common plane of motion, and the discharge ends 14 are free to move away from each other within that plane." Figures 1, 3 and 6 confirm that the electrodes 12 and their discharge ends 14 define an elongated surface. However, those electrodes do not "define a closed contour configuration that surrounds a portion of the surface" nor is there taught or suggested a second electrode that "defines another closed contour configuration that surrounds the closed contour of the first electrode . . .". Based on this, and other differences, Applicant submits that the claims presented herein define subject matter which is patentable over Lee, taken alone or in combination with the other art of record.

In the Office Action of December 17, 2002, the Examiner also made reference to Kleditsch as disclosing "a second contour which surrounds the first contour, first and second concentric circular, rectangular or square contours." (Figures 6-7; column 3, lines 6-20)." Referring to Kleditsch, at column 3, lines 6-10, the reference explains that in "a preferred embodiment the device comprises two electrodes, one electrode consisting of a straight pin, and the counter-electrode arranged parallel thereto consisting of a wire whose part bent at a right angle is designed as a wire loop which concentrically surrounds the first electrode." Thus, it appears that the device is disclosed as an outer electrode 5 which concentrically surrounds a first electrode 4. However, throughout this reference, the central electrode (4) is described as a "pin." This pin configuration makes easy the mounting of that member on a spring inside the electrode carrier so that the tip of the central electrode may protrude beyond the concentric electrode ring surrounding it, regardless of whether the ring is formed by a wire loop, a cylinder or a plurality of pin-shaped counter-electrodes. (*See*, column 3, lines 53-60). With this configuration, "the central pin electrode therefore touches the skin first and is then pressed inwards counter to the restoring force of the spring, on which it is mounted in the electrode carrier, until the counter-electrode(s) also make(s) contact with the skin. As a result, the distance between central electrode and the counter-electrode is variable and can adapt to an unevenness of the skin." (Column 3, line 61 – column 4, line 1).

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The pin electrode fulfills the purpose described in the above-identified references very well, and thus, the reference provides no teaching or suggestion for the use of a first electrode as defined in Applicant's independent claims, wherein "the first electrode defines a closed contour configuration that surrounds a portion of the surface . . .". (*See, e.g.*, Claim 1, independent Claims 7, 13, 14 and 22 contain similar limitations). Applicant respectfully submits that there is no teaching, nor is there any suggestion in Kleditsch, nor in any of the other art of record, by which the claims as presented herein would have been rendered unpatentable.

In view of the above, Applicant respectfully submits that independent Claims 1, 7, 13, 14 and 22 define subject matter which is patentable over the art of record. Furthermore, since Claims 2-6, 8-12, 17-19 and 23 each depend from one of the above-identified independent claims, it is submitted that these claims also define subject matter that is patentable over the art of record.

In view of the above, Applicant respectfully submits that Claims 1-14, 17-19, 22 and 23 are now in condition for immediate allowance and such prompt allowance of the same is respectfully requested.

CONCLUSION

The Applicant has endeavored to address all of the Examiner's concerns as expressed in the Office Action mailed December 17, 2002 in the parent application. Accordingly, amendments to the specification, drawings and claims, the reasons therefor and arguments in support of the patentability of the pending claims are presented above. Any claim amendments which are not specifically discussed in the above remarks are made to improve the clarity of claim language, to correct grammatical mistakes or ambiguities, and to otherwise improve the capacity of the claims to particularly and distinctly point out the invention to those of skill in the art.

In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified by a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

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Respectfully submitted,

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